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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,279

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Tatsuyoshi Haga

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EXAMINER

CHAVIS, JOHN Q

ART UNIT

PAPER NUMBER

2193

MAIL DATE

DELIVERY MODE

07/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/699,279

Applicant(s)

HAGA ET AL.

Examiner

John Chavis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2007 and 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Priority

1. The applicant is hereby advised that in perfecting a claim to priority under 35 U.S.C. 119(a)-(d) within the time period set in 37 CFR 1.55(a)(1) or filing a grantable petition under 37 CFR 1.55(c). See MPEP § 201.13. The foreign priority filing date must antedate the reference and be perfected. The filing date of the priority document is not perfected unless applicant has filed a certified priority document in the application **(and an English language translation, if the document is not in English)** (see 37 CFR 1.55(a)(3)) **and the examiner has established that the priority document satisfies the enablement and description requirements** of 35 U.S.C. 112, first paragraph.

The **subject matter** used in the rejection **must be disclosed in the earlier-filed application in compliance with 35 U.S.C. 112, first paragraph, in order for that subject matter to be entitled to the earlier filing date under 35 U.S.C. 102(e). Note, where the earlier application is an international application, the earlier international application must satisfy the same three conditions (i.e., filed on or after November 29, 2000, designated the U.S., and had been published in English under PCT Article 21(2)) for the earlier international filing date to be a U.S. filing date for prior art purposes under 35 U.S.C. 102(e).**

Guidance from the MPEP were provided as follows: If the international application was filed on or after November 29, 2000, but did not designate the United States or was not published in English under PCT Article 21(2), do not treat the international filing date as a U.S. filing date for prior art purposes. In this situation, do not apply the reference as of its international filing date, its date of completion of the 35 U.S.C. 371(c)(1), (2) and (4) requirements, or any earlier filing date to which such an international application claims benefit or priority. The reference may be applied under 35 U.S.C. 102(a) or (b) as of its publication date, or 35 U.S.C. 102(e) as of any later U.S. filing date of an application that properly

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claimed the benefit of the international application (if applicable).

Therefore, the applicant's claims to priority is acknowledged; but, it is not clear that the applicant has met the other requirements indicated above to overcome the references of record. That is, it is not clear that the applicant designated the U. S. or had the earlier application published in English. Furthermore, a determination of whether the priority satisfies the enablement and description requirements can not be made since an English translation has not been provided.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Inui et al. (2003/0131083). The previous action is hereby repeated since the applicant's arguments are not considered to have overcome the rejection.

What is claimed is:

1. An image processing apparatus comprising: data storage means for storing application data concerning the usage of said image processing apparatus so that rewriting of said application data is enabled;

control means for controlling the operation of said image processing apparatus based on said application data stored in said data storage means;

data acquisition means for accessing a server that stores application data, used for updating, as update data and for obtaining said update data;

data updating means for rewriting said application data stored in said data storage means to provide said update data obtained by said data acquisition means; and

acquisition method storage means for storing, in advance, an acquisition method designated for obtaining said update data, wherein, when instruction information for instructing the updating of said application data is entered in said image processing apparatus, said data acquisition means accesses said server in accordance with said acquisition method stored in said acquisition method storage means and obtains

Inui et al.

It is not clear what the term "usage" refers to. There does not appear to be a definition provided in the specification. Therefore, the term is hereby interpreted as the state of the application before updating to control when updates occur, see the title and the abstract, especially the last sentence and the firmware representing the storage means. See also sect. 0060.

See the control program in the abstract.

See the management unit in sects. 0055-0057.

See the CPU in sect. 0060.

See the pre-update process in sects. 0117-0118 and the post-update script in sect. 0121.

said update data.

2. An image processing apparatus according to claim 1, wherein said acquisition method storage means stores setup data that are required to obtain said update data using said acquisition method designated in advance.

“ “ “ “

3. An image processing apparatus according to claim 2, wherein said acquisition method storage means stores, as said setup data, at least one address for said server for storing update data and an ID or a password for accessing said server.

See sects. 0119 and 0057.

4. An image processing apparatus according to claim 1, wherein said acquisition method is a method for using HTTP (Hyper-Text Transfer Protocol) or FTP (File Transfer Protocol).

This feature is considered inherent when sending information via the internet, such as in claim 10. See also sects. 0006 and 0034.

5. An image processing apparatus according to claim 4, wherein said instruction information includes data type information indicating the type of said update data; and wherein, based on, at the least, either data type information included in said instruction information or one of several identification data sets for a serial number unique to said image processing apparatus, a product number, a model name, a product version, a model version or an application data version that is stored in said image processing apparatus, said data acquisition means specifies update data stored in an HTTP server or an

See sect. 0076.

FTP server and obtains said specified update data from said HTTP server or said FTP server.

6. An image processing apparatus according to claim 1, wherein said acquisition method is a method for using electronic mail.

See sect. 0067.

7. An image processing apparatus according to claim 1, wherein said instruction information is entered through using an operating unit of said image processing apparatus, or is received from an external device connected to said image processing apparatus.

See the management system referenced above and in claim 19.

8. An image processing apparatus according to claim 1, further comprising: validity condition setup means for setting a condition, for a validity term or a validity limit, under which said data acquisition means obtains said update data or said data update means updates said application data; and inhibiting means for inhibiting, when said instruction information entered for said image processing apparatus does not satisfy said condition designated by said validity condition setup means, the operation of said data acquisition means for acquiring said update data, or said data updating means for updating said application data.

See the ID and password means of claim 3 and sects. 0131- 0132 and 0143

9. An image processing apparatus according to claim 1, further comprising: validity condition setup means for setting a condition, for a validity term or a validity limit,

" " " "

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under which said data acquisition means obtains said update data or said data update means updates said application data; and instruction error notification means for, when said instruction information entered for said image processing apparatus does not satisfy said condition designated by said validity condition setup means, issuing a notification to a transmission source of said instruction information that said instruction information does not satisfy said condition concerning said validity term or said validity limit.

10. An image processing apparatus according to claim 8, wherein said validity condition setup means designates said condition concerning said validity term or said validity limit based on validity information for said validity term or said validity limit included in said instruction information, or in accordance with an instruction received from an external device connected to said image processing apparatus or an instruction entered using said operating means of said image processing apparatus.

See the cited portions above and sects. 0124-0125.

11. An image processing apparatus according to claim 1, wherein said data acquisition means accesses said server by using said acquisition method stored in said acquisition method storage means, and obtains test data for a communication test.

See sect. 0101.

12. An image processing apparatus according to claim 11, further

“ “ “

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comprising: error detection means for, when said test data are obtained by said data acquisition means, detecting an error that has occurred before said test data are obtained, or an error in said obtained test data; and communication error notification means for providing notification that said error has been detected by said error detection means.

In reference to claims 13-14, 16-17, and 28, see the rejection of claim 3 and note that transmitted data can also be compressed and selectively divided, see sects. 0039, 0079 and 0124-0125..

Claim 15 is rejected as claim 3.

As per claims 18-19, see the rejection of claim 5.

In reference to claims 20-21, see the rejection of claim 10.

Claims 22, 25-27 are rejected as claim 12.

As per claims 23-24, see the rejection of claims 9-12.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (571) 272-3720. The examiner can normally be reached on M-F, 9:00am-5:30pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC



John Chavis
Primary Examiner AU-2193